

THE VESTING TENTATIVE MAP FOR THIS
AGENDA ITEM IS AVAILABLE AT THE
PUBLIC INFORMATION DESK OR THE
CITY CLERK'S OFFICE LOCATED AT
CITY HALL,
455 E. CALAVERAS BLVD.,
MILPITAS, CA

Planning Commission Date: October 12, 2005

Item No.

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

Report prepared by: Staci Pereira

Public Hearing: Yes: X No:

Notices Mailed On: 9-30-05

Published On: 9-29-05

Posted On: 9-30-05

TITLE: MAJOR TENTATIVE MAP NO. MA2005-2

Proposal: A request for a Vesting Major Tentative Map to subdivide 4.56 acres (currently three parcels) into 12 parcels with nine parcels for 147 multifamily condominium units and three parcels for the associated common areas.

Location: 1696 South Main Street (APN 86-34-017)
75 Montague Expressway (APNs 86-34-019 and -020)

RECOMMENDATION: Recommend approval to City Council.

Applicant: Oak Springs Investments, LLC, Attn: Pat Brown, 4063 Birch Street, Suite 140, Newport Beach, CA 92660

Property Owners: Clayton Scott, Main Street Investments, 10237 N. Boyd Avenue, Fresno, CA 93720

Fern E. Frost Trustee, All-Cal Equipment, 75 East Montague Expressway, Milpitas, CA 95035

Environmental Info: Exempt pursuant to Article 8, Section 65457 (CEQA)

General Plan Designation: Multi-family Very High Density

Present Zoning: Multi-family Very High Density ("R4")

Existing Land Use: Tile manufacturing plant and truck repair & maintenance facility

Agenda Sent To: Applicant & property owner

Attachments: Vesting Major Tentative Map plans

PJ No. 3188

Site Description

The subject site is comprised of 3 parcels totaling 4.56 acres and is located at the northeast quadrant of Montague Expressway and South Main Street. The project site is bound by the Union Pacific Railroad to the immediate east, Highway I-880 to the west, Great Mall Parkway to the north and the City of San Jose to the immediate south.

The subject property site is within the Midtown Specific Plan area and is zoned “R4” Very High Density Residential, as are all of the properties to north along South Main Street up to Great Mall Parkway as a result of the adoption of the Midtown Specific Plan. Existing commercial, industrial and industrial park uses are adjacent to the subject site, including a storage facility, fast food restaurant and a gas station. Residential uses including a single-family neighborhood (The Pines) and a mobile home park are to the north and west. The properties have been occupied with industrial uses: a tile manufacturing plant at 1696 South Main Street and a commercial truck repair and maintenance facility at 75 West Montague Expressway, which is comprised of two parcels (APN 86-34-019 and -020).

Previous Actions

At 1696 South Main Street, the Planning Commission approved a 1,805 sq. ft. building addition on June 24, 1965 and a 4,500 sq. ft. addition on June 27, 1972 to the rear of the existing 8,047 sq. ft. building. At 75 West Montague Expressway, the Planning Commission approved Use Permit No. 538 on February 18, 1982 for a temporary building, however no other approvals for the two buildings that exist on the site were located.

APPLICATION REQUEST

The applicant is requesting approval of a Vesting Major Tentative Map, pursuant to Section XI-1-4.00 (Tentative Map) and Section XI-1-30.00 (Vesting Tentative Map) of the Subdivision Ordinance of the Milpitas Municipal Code.

Project Description

The applicant is requesting approval of a Vesting Major Tentative Map to create nine parcels for 147 condominiums and three parcels for the associated common areas for a proposed multifamily development on three existing properties. The site improvements and architecture permits (SZ2005-3 and UP2005-17) have been separated from the subdivision plans in order to accommodate the applicant’s schedule. The specific details of the proposed 147-unit residential development and associated site improvements are currently being reviewed and are anticipated to come before the Planning Commission at their meeting on October 26th.

Buildings & Common Areas

As indicated on the plans, Lots 1 through 9 would be created for 19 residential buildings. Each parcel would contain two buildings, with the exception of Lot 3, which would have three buildings within its boundary. Lot A, near the center of the property, would be created for a portion of the common recreational open space and would include recreational amenities such as a recreation building, pool, tot lot and open turf area. Lot B would be for the trash collection and pick-up area, while Lot C would be the portion of the property which is currently being used as part of the Jack-in-the-Box driveway which is not proposed to change.

Access & Driveways

The Vesting Major Tentative Map proposes two access points for the residents, both off of South Main Street. Ingress and egress for the southernmost driveway is limited to right in and right out

only from and to South Main Street. The northernmost driveway allows for a left in from southbound Main Street but limits the egress to a right turn only from the site onto South Main Street. The limited access would be controlled by a raised median which the City is currently in the midst of designing and which the applicant has agreed to contribute their fair share of the cost. An additional access, for emergency vehicles only, is proposed off Montague Expressway. This access would be designed to preclude any vehicles other than fire and other emergency vehicles.

Access and circulation routes are indicated on the plans as Easements A through J and would provide for access throughout the project, including to the individual garages at the rear of the buildings. The locations of the driveways and access points have been determined to be adequate by both the Fire and Engineering Department. The specifics, however, will be reviewed in detail during staff's review of the site improvement plans.

Conformance with the General Plan

The proposed Vesting Major Tentative Map is consistent with the General Plan in that it is consistent with Land Use Guiding Principle 2.a-G-2 to maintain a relatively compact urban form and 2.a-G-3, which provides for a variety of housing types and densities that meet the needs of individual families. The proposed project subdivides land into smaller parcels to accommodate a high-density housing project, which meets both of these goals. Also, the project provides for the implementation of the Midtown Specific Plan goals, policies and guidelines as indicated in Land Use Guiding Principle 2.a-G-6. In addition, the proposed project will accommodate 147 new ownership units, 20% of which will be affordable. This is consistent with Housing Guiding Principle C-G-1, which promotes housing affordability for both renters and homeowners.

Conformance with the Zoning Ordinance

The proposed Vesting Major Tentative Map is in conformance with the Zoning Ordinance, by providing the minimum density. The properties are zoned Multifamily Very High Density (R4) which permits a density range from 31-40 units per acre. Based on the 4.56-acre site the density range would be 141-182 units per acre. The Vesting Major Tentative Map proposes the creation of parcels which could accommodate 147 residential units and the project is therefore consistent with the Zoning Ordinance.

Conformance with the State Subdivision Map Act & Subdivision Ordinance

With respect to approving the subject application, the Subdivision Map Act defers to local ordinance. The City's Subdivision Ordinance requires design and improvement consistency with the General Plan. As previously covered in the conformance with the General Plan section, the proposed Vesting Major Tentative Map is in conformance with General Plan.

Conformance with the Midtown Specific Plan

The proposed Vesting Major Tentative Map is not in conflict with any of the Midtown Specific Plan Goals and Policies and is specifically consistent with Land Use Goal 2 which provides for a significant component of new housing within the area to improve the vitality of the Midtown Area, address local and regional housing needs and reinforce the use of transit. The proposed

project would provide for 147 new housing units in the southern portion of the Midtown Area that is currently occupied with industrial type uses including a tile manufacturing plant at 1696 South Main Street and a commercial truck repair and maintenance facility at 75 West Montague Expressway. The housing development would increase the pedestrian activity in the area and bring vitality to an area that is underutilized. In addition, the project is within approximately 80 feet of the VTA Bus Line 66 on South Main Street.

Conformance with CEQA

The proposed project is exempt from further environmental review pursuant to Article 8, Section 65457 (CEQA exemption, Specific Plans) of Planning and Zoning law, in that it is a residential development that is consistent with a specific plan for which an environmental impact report (Midtown Specific Plan and associated EIR) has been certified after January 1, 1980.

RECOMMENDATION

Close the public hearing. Recommend approval of Major Tentative Map No. MA2005-2 to City Council based on the Findings and Recommended Special Conditions below.

FINDINGS

1. The proposed Vesting Major Tentative Map is in conformance with the General Plan Land Use Guiding Principle 2.a-G-2, 2.a-G-3 and 2.a-G-6 in that it is subdividing land into smaller parcels to accommodate a high-density, ownership housing project with affordable units. The project is also consistent with Housing Guiding Principle C-G-1, which promotes housing affordability for both renters and homeowners.
2. The proposed Vesting Major Tentative Map is consistent with the Zoning Ordinance in that the proposed parcels could accommodate 147 units on the 4.56-acre site, which is within the density range permitted in the Multifamily Very High Density (R4) district.
3. The proposed Vesting Major Tentative Map is consistent with Land Use Goal 2 in that it would provide for 147 new housing units in the southern portion of the Midtown Area that is currently occupied with industrial type uses, would increase the pedestrian activity in the area, bring vitality to an area that is underutilized and is located within approximately 80 feet an existing VTA bus line.
4. The proposed Vesting Major Tentative Map is consistent with the State Subdivision Map Act and the Subdivision Ordinance in that it is in conformance with the General Plan.
5. The proposed project is exempt from further environmental review pursuant to Article 8, Section 65457 of the State Planning and Zoning Law.

SPECIAL CONDITION

1. Approval of Vesting Major Tentative Map No. MA2005-2 is to create 12 parcels (9 parcels for residential buildings and 3 parcels for common areas) for a proposed 147 condominiums multifamily development on 3 existing parcels (APNs 86-34-017, -019 and -020). (P)

2. The Vesting Major Tentative Map is for condominium purposes only. Any modifications to the development plans or the redevelopment of any individual parcel will require conformance with the zoning district for which it is zoned and Planning Commission review. (P)
3. This use shall be conducted in compliance with all appropriate local, state, and federal laws and regulations, and in conformance with the approved plans. (P)
4. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. (E)
5. Prior to final map approval, developer shall obtain approval from the City Engineer of the water, sewer and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer. (E)
6. Prior to final map approval, the developer shall obtain design approval and bond for all necessary public improvements along S. Main Street and temporary improvements along Montague Expressway, including but not limited to curb and gutter, pavement, sidewalk, signage and striping, bus stop relocation/installation, landscaping improvements, tree grates, undergrounding of overhead utilities, fire hydrants, storm drain, sewer and water services. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The developer shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. The locations of public facilities such as water meters, RP backflow preventers (which includes cages and are above ground), sewer clean outs, etc. shall be placed so access is maintained and kept clear of traffic. (E)
7. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to, sewer, water and storm connection fees, sewer treatment plant fee, traffic impact fee, in-lieu fee for the cost of median construction on Main Street (not to exceed \$59,040), and plan check and inspection deposit. These fees are collected as part of the secured public improvement agreement. (E)
8. Prior to final map approval or building permit issuance, whichever occurs first, developer shall submit an executed petition to annex the subject property into the CFD 2005-1, with respect to the property, the special taxes levied by Community Facility District (CFD 2005-1) for the purpose of maintaining the public services. The developer shall comply with all rules,

regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents. (E)

9. Access rights and improvements along Montague Expressway are under the jurisdiction of Santa Clara County Roads and Airports Department. Prior to building permit issuance the developer shall:
 - a. Submit improvement plans for all works, including the landscaping, along Montague Expressway and have the improvements reviewed and approved by the Santa Clara County Roads and Airports Department.
 - b. Obtain any necessary permits from Santa Clara County Roads and Airports Department prior to start of any work within Montague Expressway right of way.
 - c. Enter into a landscape maintenance agreement with the County of Santa Clara to maintain the proposed temporary landscaping improvement along Montague Expressway. (E)
10. Prior to any building permit issuance the developer shall dedicate adequate right of way to Santa Clara County Roads and Airports Department, 79 feet from the centerline of Montague Expressway, and/or provide document to the City's Engineering Division that the required right of way has been previously dedicated in fee. (E)
11. No permanent structures shall be constructed in the areas designated as future right of way for widening of Montague Expressway (79-foot from center line). This area shall be temporary landscaped and maintained by the developer until such time the roadway is widened. (E)
12. The final map shall be recorded prior to issuance of any building permit (except for model homes). (E)
13. Prior to final inspection by the Building Division and certificate of occupancy permit issuance of the last building, the developer shall:
 - a. Establish a homeowner association. The homeowner association shall be responsible for the maintenance of the landscaping, walls, private streetlights, common area and private streets and shall have assessment power. This information shall be clearly included in the Conditions, Covenants, and Restrictions (CC&R) and recorded documents. The CC&R document shall be submitted for review and approval by the City Engineer.
 - b. Construct all necessary public improvements along S. Main Street and temporary improvements along Montague Expressway.
 - c. Prepare and record condominium plans. (E)
14. The developer shall dedicate on the final map necessary public service utility easements, street easements and easements for water and sanitary sewer purposes. The 10-foot PSUE and sidewalk easement fronting Montague Expressway shall be dedicated to City of Milpitas. (E)

15. Prior to recordation of any final map, the developer shall submit to the City a digital format of the final map (AutoCAD format). All final maps shall be tied to the North America Datum of 1983 (NAD 83) and California Coordinate of 1983, zone 3. (E)
16. The tentative map shall show the proposed phasing diagram of multiple final maps. (E)
17. The tentative map and all final maps shall designate all common lots and easements as lettered lots or lettered easements. (E)
18. Show on the tentative map how the site will drain. Drainage facilities outletting sump conditions shall be designed to convey the 100-Year flows with provisions for emergency overland outlets and protect all buildings. (E)
19. Prior to building occupancy permit issuance, with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more which do not have to be undergrounded, the developer shall underground all existing wires on the utility poles within the site and development's frontage. Also all proposed utilities within the subdivision must be undergrounded. (E)
20. Tentative map shall show the excess portion of the S. Main Street right-of-way to be vacated for roadway purposes and retained as Public Service Utility Easement (PSUE), as shown on the Engineering Services Exhibit "T", dated 9/15/2005. (E)
21. At the time of final map plan check submittal the developer shall submit a grading plan, storm water control plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. The studies shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study prior to any Building permit issuance. (E)
22. The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation. (E)
23. All existing on-site public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City's easements. (E)
24. The homeowner association shall be responsible for the trash collection and recycling services account for all the tenants of this property. Prior to occupancy permit issuance, the property owner/manager shall submit evidence to the City that the following minimum refuse and recycling services have been subscribed with BFI for commercial services:
 - a. An adequate level of service for trash collection.
 - b. An adequate level of recycling collection.

After the applicant has started its business, BFI commercial representative shall determine the adequacy of the solid waste level of services. If services found to be

inadequate, the property owner/manager shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234, x-264. (E)

25. The standard conditions of Engineering Exhibit "B" as modified hereon shall be included with this tentative map.
26. Make changes as noted on the Engineering Services Exhibit "T" (dated 9/15/2005) and submit a revised tentative map for review and approval. No application for the review of the final map or improvement plans will be accepted until this condition is satisfied. (E)

Planning Division = (P)

Engineering Division = (P)

FINDINGS AND RECOMMENDED SPECIAL CONDITIONS OF APPROVAL

VESTING MAJOR TENTATIVE MAP NO. MA2005-2

Request for approval of a Vesting Major Tentative Map (MA2005-2) to Subdivide 4.56 Acres into 12 Parcels for a Proposed Multifamily Residential Development with 147 Condominium Units for the Property Located at 1696 South Main Street (APN 86-34-017) & Montague Expressway (APNs 86-34-019 and -020).

Planning Commission Recommended Approval: October 12, 2005

FINDINGS

1. The proposed Vesting Major Tentative Map is in conformance with the General Plan Land Use Guiding Principle 2.a-G-2, 2.a-G-3 and 2.a-G-6 in that it is subdividing land into smaller parcels to accommodate a high-density, ownership housing project with affordable units. The project is also consistent with Housing Guiding Principle C-G-1, which promotes housing affordability for both renters and homeowners.
2. The proposed Vesting Major Tentative Map is consistent with the Zoning Ordinance in that the proposed parcels could accommodate 147 units on the 4.56-acre site, which is within the density range permitted in the Multifamily Very High Density (R4) district.
3. The proposed Vesting Major Tentative Map is consistent with Land Use Goal 2 in that it would provide for 147 new housing units in the southern portion of the Midtown Area that is currently occupied with industrial type uses, would increase the pedestrian activity in the area, bring vitality to an area that is underutilized and is located within approximately 80 feet an existing VTA bus line.
4. The proposed Vesting Major Tentative Map is consistent with the State Subdivision Map Act and the Subdivision Ordinance in that it is in conformance with the General Plan.
5. The proposed project is exempt from further environmental review pursuant to Article 8, Section 65457 of the State Planning and Zoning Law.

SPECIAL CONDITIONS

1. Approval of Vesting Major Tentative Map No. MA2005-2 is to create 12 parcels (9 parcels for residential buildings and 3 parcels for common areas) for a proposed 147 condominiums multifamily development on 3 existing parcels (APNs 86-34-017, -019 and -020). (P)
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3. This use shall be conducted in compliance with all appropriate local, state, and federal laws and regulations, and in conformance with the approved plans. (P)
4. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired

by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. (E)

5. Prior to final map approval, developer shall obtain approval from the City Engineer of the water, sewer and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer. (E)
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 - a. Submit improvement plans for all works, including the landscaping, along Montague Expressway and have the improvements reviewed and approved by the Santa Clara County Roads and Airports Department.
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 - c. Enter into a landscape maintenance agreement with the County of Santa Clara to maintain the proposed temporary landscaping improvement along Montague Expressway. (E)

10. Prior to any building permit issuance the developer shall dedicate adequate right of way to Santa Clara County Roads and Airports Department, 79 feet from the centerline of Montague Expressway, and/or provide document to the City's Engineering Division that the required right of way has been previously dedicated in fee. (E)
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18. Show on the tentative map how the site will drain. Drainage facilities outletting sump conditions shall be designed to convey the 100-Year flows with provisions for emergency overland outlets and protect all buildings. (E)
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20. Tentative map shall show the excess portion of the S. Main Street right-of-way to be vacated for roadway purposes and retained as Public Service Utility Easement (PSUE), as shown on the Engineering Services Exhibit "T", dated 9/15/2005. (E)
21. At the time of final map plan check submittal the developer shall submit a grading plan, storm water control plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. The studies shall be

reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study prior to any Building permit issuance. (E)

22. The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation. (E)
23. All existing on-site public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City's easements. (E)
24. The homeowner association shall be responsible for the trash collection and recycling services account for all the tenants of this property. Prior to occupancy permit issuance, the property owner/manager shall submit evidence to the City that the following minimum refuse and recycling services have been subscribed with BFI for commercial services:
 - a. An adequate level of service for trash collection.
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After the applicant has started its business, BFI commercial representative shall determine the adequacy of the solid waste level of services. If services found to be inadequate, the property owner/manager shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234, x-264. (E)

25. The standard conditions of Engineering Exhibit "B" as modified hereon shall be included with this tentative map.
26. Make changes as noted on the Engineering Services Exhibit "T" (dated 9/15/2005) and submit a revised tentative map for review and approval. No application for the review of the final map or improvement plans will be accepted until this condition is satisfied. (E)

Planning Division = (P)

Engineering Division = (P)

**VII.
APPROVAL OF
AGENDA**

Chair Williams called for approval of the agenda.

Mr. Williams noted that at the request of staff and the applicant, Agenda Item No. 4 (Major Tentative Map Amendment No. TM2005-1) should be removed from the agenda and may be brought forward at a future date.

Motion to approve the agenda with the removal of Agenda Item No. 4.

M/S: Mandal/Azevedo

AYES: 6

NOES: 0

**VIII.
CONSENT CALENDAR
Item No. 1**

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

Staff had no changes to the consent calendar.

Chair Williams opened the public hearing on Consent Item No. 1

There were no speakers from the audience.

Close the public hearing

Motion to close the public hearing on Consent Item No. 1.

M/S: Galang/Mandal

AYES: 6

NOES: 0

Motion to approve the consent calendar on Consent Item No. 1.

M/S: Lalwani/Galang

AYES: 6

NOES: 0

***1 USE PERMIT APPROVAL AMENDMENT NO. UA2005-11 AND "S" ZONE APPROVAL AMENDMENT NO. SA2005-53:** A request to convert an existing loading dock and storage area into a multi-purpose room, minor exterior building modifications, and a parking modification for a religious facility located in the Dixon Landing Business Park, zoned Industrial Park (MP), at 1494 California Circle.

IX. PUBLIC HEARING

**1. MAJOR TENTATIVE
MAP NO. MA2005-2**

Staci Pereira, Assistant Planner, presented Major Tentative Map No. MA2005-2, a request for a vesting major tentative map to subdivide 4.56 acres (currently three parcels) into twelve parcels with nine parcels for 147 multifamily condominium units and three parcels for the associated common areas located at 1696 South Main Street and 75 Montague Expressway. Staff recommended approval to City Council and also modified special Condition No. 6 that reads as follows:

6. *Prior to final map approval, the developer shall obtain design approval and bond for all necessary public improvements along S. Main Street and temporary improvements along Montague Expressway, including but not limited to curb and gutter, pavement, sidewalk, signage and striping, landscaping improvements, tree grates, undergrounding of overhead utilities, fire hydrants, storm drain, sewer and water services. Plans for all public improvements shall be prepared on Mylar (24" x 36" sheets) with City Standard Title Block and submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The developer shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor and materials. The locations of public facilities such as water meters, RP backflow preventers (which includes cages and are above ground), sewer clean outs, etc. shall be placed so access is maintained and kept clear of traffic (E)*

Pat Brown with RGC representing the Oak Springs Development, explained that the Tentative Map application came before the S-Zone and Use Permit application because of scheduling conflicts. After submitting plans for building design, the applicant made several changes such as expanding the recreation facility, revising the architecture to create better tower elements and revising the paseos. Mr. Brown noted that the applicant is in agreement with all of the conditions of approval.

Commissioner Lalwani asked if there will be a traffic light at the entrance of Lot C. Mr. Brown said that he is not aware of a traffic light however, the applicant worked with the City for an additional median on Main Street that would be funded with in lieu fees. The median would help separate traffic between Montague and Great Mall Parkway and would prevent traffic from crossing from southbound Main Street to the southern entrance of the project. There would also be a left turn pocket that would allow vehicles traveling south on Main to turn into the project site, but would restrict residents from making a left turn on Main Street.

Commissioner Lalwani pointed out Lot and asked what it would be used for and Ms. Pereira replied that Lot B would be for the garbage enclosure.

Commissioner Lalwani pointed at the intersection of South Main Street and Montague and asked if there would be a wall there and Ms. Pereira said yes.

Commissioner Garcia said he is concerned about the quality of life because there is a Jack-in-the-Box right in the middle of the project. He asked if there will be requirements for odor control. Ms. Pereira stated that staff cannot require Jack-in-the-Box to do odor control because they are an existing condition, however, a noise analysis has been prepared and staff is looking at a sound wall around the property and having noise barriers at the patios.

Commissioner Garcia asked if the developer could pay for an odor scrubber for Jack-In-the-Box. Mr. Williams said that staff is looking into that and is waiting for input from legal staff to see if it is possible.

Commissioner Garcia asked if the nearby mosque will have restrictions because of the housing project. Ms. Pereira replied that the mosque has been approved and has received their entitlements and that no there are no new requirements on their project.

Commissioner Williams asked if the architectural plans for the mosque will be the same and Ms. Pereira stated that she is not aware of any changes.

Commissioner Mandal asked what is the height of the wall that will be surrounding the complex near Jack-in-the-Box. Ms. Pereira deferred the question to the applicant.

Commissioner Mandal asked about the landscaping plan and said he would like to review it before the project moves forward. Ms. Pereira stated that there will be landscaping around the gas station and between the buildings and the property line. There will also be landscaping around the existing storage building that sits on the property line and staff will ensure that trees will screen the existing building. There will also be landscaping around the Jack-in-the-Box and the north and east side around the recreation area.

Mr. Brown added that the applicant looked at the streets because they allow for bigger setbacks between the building and adjacent uses. On the north side of Jack-in-the-Box, there is a street between Jack-in-the-Box and the buildings to keep as much separation as possible. There will also be a six-foot screen wall near the recreation area by the Jack-in-the-Box and an 8-foot screen wall near the Shell Gas Station.

Commissioner Mandal asked how many stories there are and Mr. Brown replied three stories over a garage.

Commissioner Mandal strongly suggested that the applicant add trees to block the noise and odor.

Commissioner Lalwani asked if there will be a small park near the recreation area. Mr. Brown said that the recreation area will have a deck, outdoor barbeque and badminton court and the grass area is about 45 by 100 feet.

Commissioner Lalwani asked if the target market is working couples and Mr. Brown said yes.

Commissioner Lalwani asked how does staff calculate park requirements. Ms. Pereira replied that the requirements are 3 ½ acres required by every 1000 people. So staff takes the number of units and multiplies it by the number of persons per household, which equals the parkland requirements.

Commissioner Lalwani asked what school would the children attend and Mr. Brown said Zanker Elementary.

Vice Chair Galang asked what is the distance from the property to Jack-in-the-Box and Mr. Brown replied seven feet from the closest building and 45 feet from the north side.

Vice Chair Galang asked if the front doors of the condominium face Jack-in-the-Box. Mr. Brown noted that only 3 units have front doors that face Jack-in-the-Box.

Vice Galang said he would be concerned living near Jack-in-the-Box because of noise and odor.

Chair Williams agreed with his fellow Commissioners about noise coming from the Jack-in-the-Box drive thru speakers and the car wash machine from the Shell Gas Station. He said it would be hard to get Shell and Jack-in-the-Box to change their procedures because they were there first. He suggested that new buyers be given conditions that make them aware that they will be living near a restaurant and gas station.

Mr. Brown agreed with Chair Williams and said there are a number of different disclosures that happen in a real estate transaction and he could work with staff to create something for the buyer that states what the issues are.

Chair Williams opened the public hearing.

There were no speakers from the audience:

Close the public hearing

Motion to close the public hearing:

M/S: Mohsin/Azevedo

AYES: 7

NOES: 0

Commissioner Mandal asked what is the distance between the project and the mosque and Mr. Brown said eight feet.

Commissioner Mandal suggested adding trees along the perimeter between the mosque and the residential project. Ms. Pereira stated that the Midtown plan requires 25% of the project to be landscaped and there will be shrubs and trees, which will occur along the whole perimeter of the property.

Chair Williams recalled that the mosque was only requiring a few palm trees and that this project proposal has much better landscaping.

Commissioner Lalwani asked why didn't the applicant purchase Jack-in-the-Box. Mr. Brown said they are a big corporation and didn't even want to talk to them and it is a good location for them.

Chair Williams added that it is the only restaurant in the area that is open 24 hours.

Commissioner Lalwani said that she likes the project and thinks that the landscaping plan would enhance the area.

Commissioner Mandal asked if it is an appropriate time to condition the project about the landscaping plan. Mr. Williams noted that the appropriate time to make changes would be when the site and architectural elements of the project come back to the Commission for review.

Commissioner Lalwani asked why will the application be coming back and Mr. Williams said that it requires Commission approval for noise circulation, on site parking, landscaping and zoning.

Motion recommending approval to City Council for Major Tentative Map No. MA2005-2 with modification to Condition No. 6.

M/S: Mohsin/Azevedo

AYES: 7

NOES: 0